

EDMUND G. BROWN JR.
Attorney General of the State of California
DANE R. GILLETTE
Chief Assistant Attorney General
GARY W. SCHONS
Senior Assistant Attorney General
KEVIN VIENNA
Supervising Deputy Attorney General
ERIKA HIRAMATSU, State Bar No. 190883
Deputy Attorney General
110 West A Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2224
Fax: (619) 645-2191
Email: Erika.Hiramatsu@doj.ca.gov

Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

EDWARD SAENZ, JR.,

Petitioner,

v.

**SECRETARY OF THE DEPARTMENT OF
CORRECTIONS AND REHABILITATION, et
al.,**

Respondent.

08-0566 WQH (JMA)

**REQUEST FOR FIRST
ENLARGEMENT OF TIME TO
FILE RESPONDENT'S MOTION
TO DISMISS HABEAS PETITION
(28 U.S.C. § 2254)**

Judge: The Honorable Jan M. Adler

I, Erika Hiramatsu, declare the following under penalty of perjury under the laws of the United States:

I am the deputy attorney general assigned to prepare Respondent's Motion to Dismiss Petitioner's habeas petition pursuant to this Court's July 17, 2008, Order in the above-entitled matter.

This is Respondent's first request for enlargement of time to file Respondent's Motion to Dismiss, which is due today, September 4, 2008.

1 While mindful of this Court's order that a request for an extension of time should be made
2 in advance of the due date of the pleading, I respectfully request time to file the Motion be enlarged
3 seven (7) days to and including September 10, 2008, for the following reasons:

4 I completed a draft of the Motion to Dismiss on August 29, 2008, and submitted it for
5 supervisory review. Since completing the draft, I have been working on a Ninth Circuit case in
6 which a response is due on Monday, September 8, 2008, after one thirty-day enlargement of time.
7 Due to an oversight, supervisory review of the draft was not completed until this afternoon. Because
8 of the time it will take to clerically process the Motion to Dismiss, it will not be possible to file it
9 today.

10 An enlargement of time to file the Motion to Dismiss is required to allow sufficient time
11 for its clerical processing and duplication, as I share my secretary with another attorney and one
12 supervising attorney.

13 For these reasons, I respectfully request the time for filing Respondent's Motion to
14 Dismiss be enlarged to and including **September 10, 2008**.

15 Dated: September 4, 2008

16 Respectfully submitted,

17 EDMUND G. BROWN JR.
Attorney General of the State of California

18 DANE R. GILLETTE
Chief Assistant Attorney General

19 GARY W. SCHONS
Senior Assistant Attorney General

20 KEVIN VIENNA
Supervising Deputy Attorney General

21
22
23 s/Erika Hiramatsu
ERIKA HIRAMATSU
24 Deputy Attorney General
Attorneys for Respondent
25

26 80279147.wpd
SD2008700706
27
28

CERTIFICATE OF SERVICE BY U.S. MAIL

Case Name: **Saenz v. Dept. of Corrections**

No.: **08-0566 WQH (JMA)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 4, 2008, I served the following documents:

REQUEST FOR FIRST ENLARGEMENT OF TIME TO FILE RESPONDENT'S MOTION TO DISMISS HABEAS PETITION (28 U.S.C. § 2254); and ORDER GRANTING RESPONDENT'S REQUEST FOR AN ENLARGEMENT OF TIME TO FILE A MOTION TO DISMISS (28 U.S.C. § 2254)

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Edward Saenz, Jr.
461 5th Avenue, # 20
San Diego, CA 92101
Pro Se

Electronic Mail Notice List

I have caused the above-mentioned document(s) to be electronically served on the following person(s), who are currently on the list to receive e-mail notices for this case: None

Manual Notice List

The following are those who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing): **Edward Saenz, Jr.** at the above-named address.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 4, 2008, at San Diego, California.

Bonnie Peak

Declarant



Signature